

FISCAL NOTE

SB 1792 - HB 2106

March 20, 2007

SUMMARY OF BILL: Increases the penalty for sexual exploitation of a minor from a Class D to a Class C felony with a minimum sentence of 10 years; from a Class C to a Class B with a minimum sentence of 20 years if defendant possesses more than 50 images; and from a Class B to a Class A with a minimum sentence of 25 years if defendant possesses more than 100 images. Increases the penalty for aggravated sexual exploitation of a minor from a Class C to a Class B felony with no established minimum sentence and from a Class B to a Class A if defendant possesses more than 25 images, with a minimum sentence of 25 years. Increases the penalty for especially aggravated sexual exploitation of a minor from a Class B to a Class A felony with a minimum sentence of 25 years. For all offenses, except one, where there is a minimum sentence imposed, the minimum sentence must be served day-for-day prior to release eligibility. The offense of especially aggravated sexual exploitation of a minor requires the entire sentence imposed to be served day-for-day prior to release eligibility.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$5,625,200 / Incarceration*

Assumptions:

- According to the Administrative Office of the Courts, there have been an average of 14 convictions per year for the past five years for sexual exploitation of a minor; five convictions per year for the past five years for aggravated sexual exploitation of a minor; and 10 convictions per year for the past five years for especially aggravated sexual exploitation of a minor.
- According to the Department of Correction (DOC), there have been an average of four admissions per year for the last three years for sexual exploitation of a minor; 2 admissions per year for the past three years for aggravated sexual exploitation of a minor; and 3 admissions per year for the past three years for especially aggravated exploitation of a minor.
- According to DOC, the average operating cost per inmate per day for calendar year 2007 is \$60.16.
- Two offenders will be convicted of sexual exploitation of a minor and will serve an additional 9.4 years (an increase from a Class D at 0.6 years to

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a Class C at 10 years). The cost per inmate at 0.6 years is \$13,184.06 ($\60.16×219.15 days). The cost per inmate at 10 years is \$219,734.40 ($\60.16×3652.50 days). The additional cost from increasing the average sentence length from 0.6 years to 10 years is \$206,550.34 ($\$219,734.40 - \$13,184.06$). The total additional operating cost for two offenders is \$413,100.68 ($\$206,550.34 \times 2$).

- DOC estimates that 75% (11) of those convicted for sexual exploitation of a minor received probation and under this bill would be ineligible for probation. Eleven persons would be convicted of a Class D felony offense of sexual exploitation of a minor in the first year and would serve 10 years. According to the U.S. Census Bureau, the population growth in Tennessee has been 1.09 percent per year for the past 10 years. Population growth would result in one additional offender in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by § 9-4-210, is based on 12 offenders serving 10 years (3652.50 days). The cost per inmate at 10 years is \$219,734.40 ($\60.16×3652.50 days). The total additional operating cost in the tenth year for 12 offenders is \$2,636,812.80 ($\$219,734.40 \times 12$).
- One offender will be convicted of sexual exploitation of a minor and will serve additional time in the tenth year after the sentence increase is added to time currently served. The cost per inmate at 0.9 years is \$19,776.40 ($\60.16×328.73 days). The maximum cost in the tenth year is \$239,510.80 ($\60.16×3981.23 days). The additional cost from increasing the average sentence length from 0.9 years to 20 years for one offender is \$219,734.40 ($\$239,510.80 - \$19,776.40$).
- DOC estimates that 50% (3) of those convicted for aggravated sexual exploitation of a minor received probation and under this bill would be ineligible for probation. Three persons will be convicted of a Class B felony for aggravated sexual exploitation of a minor and will serve 20 years. The cost per inmate at 10 years is \$219,734.40 ($\60.16×3652.50 days). The total additional operating cost in the tenth year for three offenders is \$659,203.20 ($\$219,734.40 \times 3$).
- One offender will be convicted of sexual exploitation of a minor and will serve additional time in the tenth year after the sentence increase is added to time currently served. The cost per inmate at 2.4 years is \$52,736.27 ($\60.16×876.60 days). The maximum cost in the tenth year is \$272,470.66 ($\60.16×4529.10 days). The additional cost from increasing the average sentence length from 2.4 years to 25 years for one offender is \$219,734.39 ($\$272,470.66 - \$52,736.27$).
- DOC estimates that one offender convicted of especially aggravated sexual exploitation of a minor received probation and under this bill would be ineligible for probation. One person will be convicted of a Class A felony for especially aggravated sexual exploitation of a minor and will serve 25 years. The maximum cost in the tenth year for one offender is \$219,734.40 ($\60.16×3652.50 days).

- Four offenders will be convicted of especially aggravated exploitation of a minor and will serve additional time in the tenth year after the sentence increase is added to time currently served. The cost per inmate at 2.4 years is \$52,736.27 (\$60.16 x 876.60 days). The maximum cost in the tenth year is \$272,470.66 (\$60.16 x 4529.10 days). The additional cost from increasing the average sentence length from 2.4 years to 25 years is \$219,734.39 (\$272,470.66 - \$52,736.27). The total additional operating cost in the tenth year for four offenders is \$878,937.56 (\$219,734.39 x 4).
- Three additional offenders per year will be convicted of aggravated sexual exploitation of a minor and will serve 2.4 years as a result of this bill. The cost per inmate at 2.4 years is \$52,736.27 (\$60.16 x 876.60 days). The total additional operating cost for three offenders is \$158,208.81 (\$52,736.27 x 3).
- One additional offender per year will be convicted of aggravated sexual exploitation of a minor and will serve 25 years as a result of this bill. The maximum cost in the tenth year for one offender is \$219,734.40 (\$60.16 x 3652.50 days).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director